

# Residential property to benefit most from Estate and Gift Tax Act amendment

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Taiwan's Legislative Yuan amended the Estate and Gift Tax Act (the "Act") on 25 April 2017. Gifting demand for real estate should increase since the tax saving effect will be greater after the amendment. In addition, residential property will benefit the most across different property sectors since an individual is entitled to file a tax return from the tax paid for Land Value Incremental Tax and Income Tax generated from a sale of owner-occupied property if the transaction meets certain criteria.

## Land and buildings are main gifting items

Based on statistics from the National Taxation Bureau of the Northern Area, the number of land, building and shares transfers as gifts were approximately 90,000; 30,000 and 7,000 respectively in 2015. The same set of numbers in 2016 for land, buildings and shares were around 80,000; 20,000 and 8,000 respectively.

## Considerable numbers of land and buildings transfer come from inheritance and gift

The number of land and building transfers from inheritances and gifts has accounted for over 10% of total building transfer numbers since 2013. This trend

continues after the implementation of the revised Income Tax Law for Real Estate in 2016.

**Table 1: Annual numbers of building transfer and proportions for sales, inheritance and gift**

Year	Number of transfers	Proportions		
		Sales	Inheritance	Gift
2007	524,640	79.0%	6.6%	6.0%
2008	495,566	76.5%	7.2%	6.4%
2009	513,886	75.6%	7.1%	6.5%
2010	529,972	76.7%	7.4%	6.7%
2011	497,739	72.7%	8.3%	8.0%
2012	454,908	72.3%	9.5%	10.3%
2013	503,628	73.8%	8.8%	10.3%
2014	457,911	70.0%	10.4%	12.1%
2015	438,047	66.8%	11.4%	12.7%
2016	378,661	64.8%	13.7%	11.0%
2017 March	94,684	63.1%	13.2%	13.8%

Source: Colliers

In terms of the land transfers, the total number from inheritances and gifts were higher than the number for sales in 2016 and Q1 2017.

**Figure 1: Annual numbers of land transfer (in thousand) and proportions for sales, inheritance and gift**



Source: Colliers

## Compared to cash and listed stocks, the tax amount for gifting land and buildings is lower

Based on Article 10 of the "Act", if the estate of a deceased person or the property transferred by gifting includes land and buildings, the land shall be valued at the Assessed Present Value (the "APV") and the buildings shall be valued at the Assessed Standard Price (the "ASP") for tax purposes. In general, the "APV" of land is only 30% to 80% of its market value and the "ASP" of buildings is also much lower than its market value. Therefore, gifting land and buildings can enjoy a low tax base. And the tax amount will be less if the donor chooses land and buildings as gift items.

A flat in the Palace, one of the most luxury residences in Taipei City, was transacted at NTD222 million (USD7.4 million) on 12 April 2017. The house unit has a shared land area of 21.29 ping (70.26 sq m) and gross floor area of 178.35 ping (588.56 sq m). The APV of the unit is NTD93 million and its ASP is NTD37 million. (The ASP will be NTD55 million after July 2017) The total value of the APV and the ASP of the flat is NTD130 million, much lower than its market value.

Before the amendment to the Act, the gift tax amount would have been NTD21.98 million if a father gifted his child NTD222 million in cash. However, the tax amount will fall to NTD12.78 million if the father buys the abovementioned flat first then transfers it to the child. He will save gift tax of NTD9.2 million in this case by choosing real estate as a gift item.

## The saving amount is more for gifting land and buildings after raising gift tax rate

After the amendment to the Act, the gift tax amount was NTD40.21 million if a father gifted his child NTD222 million in cash. Now, however, the tax amount will be

NTD21.81 million if the father buys the abovementioned flat first then transfers it to the child. The saving amount is widened to NTD18.4 million if real estate is chosen as a gift item in the case. Land and buildings are still better choice as gift items after the increase in the gift tax rate.

**Table 2: Tax rate for Gift Tax**

Taxable amount	Before	After
Below NTD25 million		10%
Between NTD25 and 50 million	10%	15%
Above NTD50 million		20%

Source: Colliers

## Although income tax amount is higher for selling donated land and buildings, tax payer is entitled to file a tax return

The officials in the Ministry of Finance always say that, although the tax amount for gifting land and buildings is lower than gifting cash, the payable income tax will be higher when people sell donated land and buildings.

Obviously, tax payers don't recognize the above saying as the number of transfers for gifting land and buildings has been increasing in recent years. The key factor is that individuals are entitled to file tax returns on tax paid if they repurchase another house and land as their self-use residence within two years from the date on which the ownership transfer registration of house and land is completed. This is stipulated in the Article 14-8 and 17-2 of the Income Tax Act.

Residential property should benefit most from the Estate and Gift Tax Act amendment if the tax base is remaining the same.

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